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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/624,902  | 07/25/2000  | Frank E. Johnson     | 5063-1-1            | 6673             |
| 22442   | 7590        | 10/27/2004           | EXAMINER            |                  |
| SHERIDAN ROSS PC<br>1560 BROADWAY<br>SUITE 1200<br>DENVER, CO 80202 |             |                      | LIN, WEN TAI        |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2154                |                  |

DATE MAILED: 10/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/624,902

Applicant(s)

JOHNSON, FRANK E.

Examiner

Wen-Tai Lin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 7/27/04 & 3/24/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10-13, 15-19 and 21-24 is/are rejected.
- 7) ☒ Claim(s) 7-9, 14 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/16/04, 4/21/04</u>  | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. Claims 1-24 are presented for examination.
2. Claims 1-20 and 23 are objected to because the following terms lack antecedent basis:

|                           |  |
|---------------------------|--|
| In claims 1, 6, 8 and 11, | "the at least first network node";         |
| In claims 1 and 11,       | "the at least first presentation command"; |
| In claim 7,               | "said at least first network node";        |
| In claim 14,              | "the content supplying network nodes";     |
| In claim 15,              | "the first content supplying node"; and    |
| In claim 23,              | "said alternative present portion".        |

3. Claims 11-20 are objected to because of the following issues/informalities:  
As to claim 11, the phrases "each network node (N) of said first and second network nodes" (at line 22) and "the network node N" (at line 27) are confusing because of the slightly different notation. It appears that the letter "N" can be omitted because there are only two nodes which are already designated as the first and second network nodes.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-6, 11-13, 15, 17-19 and 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakayama et al.[U.S. Pat. No. 6493748].

6. As to claim 1, Nakayama a system for synchronizing display of at least one non-streaming portion [e.g., still images] of at least one presentation with at least one streaming portion [e.g., audio streaming data] of the presentation when the non-streaming and the streaming portions of the presentation are performed on at least a first network node via at least one communications network [Figs. 2, 7 & 12-13; col.4, line 19 – col.5, line 9; col.12, lines 32-36; col.13, line 61 – col.14, line 11], the system comprising at least the following:

a time generator for outputting at least first [e.g., start time 1 and start time 2, Fig.12] and second [e.g., T1, Fig.12] master timing values for synchronizing

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performance of said non-streaming and streaming portions at the at least first network node [col.12, lines 46-54];

a presentation controlling node [e.g., 20, Fig.2] coupled to receive the first master timing value and for transmitting to the at least first network node [e.g., 10, Fig.2], via the communications network, presentation control information including: (a) at least a first presentation command [e.g., display of still images in accordance to a synchronization file] related to displaying the non-streaming portion at the first network node, and (b) a first time value derived from said first master timing value, wherein said first time value is indicative of a time for performing the at least first presentation command at the first network node [Fig.11; col.12, lines 55-62];

a presentation time determining component [e.g., 12, Fig.2] at said first network node for determining a second time value relative to performing at least part of said streaming portion at said first network node, wherein said second time value is determined using said second master timing value [Fig.12; col.12, lines 46-54];

a time delay determining component [e.g., 12, Fig.2] at said first network node for determining a time delay between said first time value and the second time value [col.12, lines 49-54]; and

a presentation synchronization component [e.g., 12, Fig.2] for using said time delay to delay the performing, at said first network node, of the non-streaming portion relative to the streaming portion [col.12, lines [col.12, lines 49-54; col.17, line 57 – col.18, line 7].

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7. As to claim 2, Nakayama further teaches that one or more of:

(a) said time generator generates each of said first and second master timing values using a substantially identical reference of time;

(b) said streaming portion is received at the first network node via the communications network;

(c) said first master timing value is approximately indicative of an origination time for said non-streaming portion; and

(d) said second master timing value is approximately indicative of an origination time for said streaming portion [See Figs. 12 and 15-16].

8. As to claim 3, Nakayama further teaches that said second master timing value is provided to said first network node via the communications network [col.12, lines 46-54].

9. As to claim 4, Nakayama further teaches that the system further includes one or more presentation content supplying nodes [i.e., both the proxy server and the remote WWW servers are potential supplying nodes] for transmitting, via the communications network, said non-streaming portion to said first network node [23b, Fig.4].

10. As to claim 5, Nakayama further teaches that at least one of said non-streaming and streaming portions is streamed on the communications network, and the communications network includes a portion of the Internet [30, Fig.2].

11. As to claim 6, Nakayama further teaches that the presentation control information provides information for identifying a first collection of one or more presentation segments for presenting on the at least first network node, and for identifying an alternative collection of one or more presentation segments for presenting on the at least first network node, wherein the first and the alternative collections are each replaceable with the other when presenting the presentation [42, Fig. 4; Figs.6-8; i.e., the local control file identifies alternative source of the presentation segments].

12. As to claims 11-13, 15 and 21-22, since the features of this claim can also be found in claims 1-6, it is rejected for the same reasons set forth in the rejection of claims 1-6 above.

As for the additional limitations requiring a first and second subcollections that are replaceable with each other and each with identifications of supplying nodes in claim 11: it is noted that Nakayama teaches that each local proxy server may prestore a copy of the same presentation (but may be different in versions) with a respective local control file (or synchronization file) defining sources of the stored copy (so that newer data can be collected from the originating site when it is determined that some locally stored information is out of date).

As for the additional limitations requiring the extent of the non-streaming and streaming portion be transmitted in claim 21: it is noted that by default the size of a payload (i.e., the extent of a transmitted data segment) in a packet is also contained in the packet header.

13. As to claim 17, Nakayama teaches incorporating a parameter (T1) in the synchronization file as an estimated elapsed time from start of delivery [col.12, lines 46-54; Fig.12], wherein it is clear that T1 is a measurement indicative of an available bandwidth of previous transmissions via the communications network to the first network node and the size of said first subcollection because T1 must realistically reflect the current network conditions and the size of streaming segments (i.e., clips).

14. As to claims 18-19, Nakayama further teaches that establishing whether said first subcollection is cached at said first network node within a desired time prior to a performance of the first subcollection [col.1, lines 43-48; i.e., the valid duration of a cached item is an inherent parameter that is built into a nominal cache, which is a predetermined length of time].

### ***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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16. Claims 10, 16 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakayama et al. (hereafter "Nakayama") [U.S. Pat. No. 6493748], as applied to claims 1-6, 11-13, 15, 17-19 and 21-22 above, further in view of Official Notice.

17. As to claim 10, Nakayama teaches live broadcasting musical performance over the Internet, which may include the telephone network as an wide-area network [col.13, lines 57-65]. Nakayama does not specifically teach using a phone bridge controller for transmitting an audio portion for said presentation to a third network node such that the audio portion is synchronized with an audio portion of the presentation provided to the first network node.

However, Official Notice is taken that using telephone network to deliver live broadcast such as teleconferencing is well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include telephone network for Nakayama's live broadcast to because telephone network is a straightforward media for live audio broadcast [col.15, lines 33-40].

18. As to claim 16, since the features of this claim can also be found in claims 1 and 10-11, it is rejected for the same reasons set forth in the rejection of claims 1 and 10-11 above.

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19. As to claim 24, Nakayama teaches that the alternative presentation portion could be obtained from a local proxy server representing the same data stored in a remote server. Nakayama does not specifically teach that said alternative presentation portion is represented by a reduced amount of data transmitted on the communications network in comparison to the first presentation portion.

However, Official Notice is taken that reducing and transcoding data transmitted to a handheld device via a proxy server is well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include users of handheld devices to Nakayama's information management system by storing a scaled-down version of the presentation at a proxy server because by doing so it would enable the handheld device users to also employ Nakayama's system/method for various live broadcasting activities.

20. As to claim 23, since the features of this claim can also be found in claims 1, 10 and 21-22, it is rejected for the same reasons set forth in the rejection of claims 1, 10 and 21-22 above.

21. Claims 7-9, 14 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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**22.** A shortened statutory period for response to this action is set to expire 3 (three) months and 0 days from the mail date of this letter. Failure to respond within the period for response will result in ABANDONMENT of the application (see 35 U.S.C. 133, M.P.E.P. 710.02, 710.02(b)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (571)272-3969. The examiner can normally be reached on Monday-Friday (8:00-5:00) .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571)272-3964. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

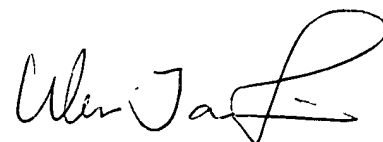
(703)872-9306 for official communications; and

(703)746-5516 for status inquires draft communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Wen-Tai Lin

October 20, 2004

  
10/20/04